IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 932 of 2003 (M/S)

Central Board of Secondary Education
Through Secretary Central Board of
Secondary Education, Delhi

..... **Petitioner**

Versus

The Additional District Judge /
III Fast Track Court, Haridwar
and others

..... **Respondents**

With

Civil Writ Petition No. 930 of 2003 (M/S)

Central Board of Secondary Education
Through Secretary Central Board of
Secondary Education, Delhi

..... **Petitioner**

Versus

The Additional District Judge /
III Fast Track Court, Haridwar
and others

..... **Respondents**

Mr. ALok Singh, Senior Advocate assisted by
Mr. Bhupendra Bisht, learned counsel for the petitioner.
Mr. Parikshit Saini, learned counsel for the respondents.
Hon'ble Prafulla C. Pant, J.

By means of these petitions, the petitioner, Central Board of Secondary Education (for brevity hereinafter C.B.S.E.) has sought writ in the nature of certiorari quashing the proceedings of suit No. 53 of 2003 and suit No. 54 of 2003 wherein the respondents have sought injunction for appearing in the

Intermediate (12th Class) examination and for declaration of its result.

2) Heard learned counsel for the parties and perused the record.

3) Learned counsel for the petitioner submitted that none of the respondents Nos. 2 to 14 (in writ petition No. 932 (M/S) of 2003) nor respondent Nos. 2 to 4 (in writ petition No. 930 (M/S) of 2003) have passed 11th class, as such they are no entitled to appear in the Board examination of 12th class of the C.B.S.E. Learned counsel for the respondents failed to show me if any of the respondents has passed the 11th class. That being so, in view of the principle of law paid laid down in ***Regional Officer, CBSE Vs. Ku. Sheena Peethambaran & others reported in (2003) 7 Supreme Court Cases 719,*** it is clear that the suit for injunction is not maintainable as injunction cannot be issued against the byelaws of the C.B.S.E. to permit the plaintiffs to appear in examination. Since the present case in squarely covered by the judgment of Hon'ble the Apex court given in the aforesaid case, the suit before the trial court is not maintainable. Therefore, both the writ petitions deserve to be allowed and are accordingly allowed. The Proceedings in the suit No. 53 of 203 and suit No. 54 of 2003 of the learned trial court are quashed. Interim orders passed therein stand vacated. The suits shall stand dismissed as barred by jurisdiction. No order as to costs.

(Prafulla C. Pant, J.)

Dt: 23.12.2004
HN